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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,083	07/17/2003	Sylvaine Leroy-Delage	55.0200CNT	1241
27452	7590	03/25/2004	EXAMINER	
SCHLUMBERGER TECHNOLOGY CORPORATION IP DEPT., WELL STIMULATION 110 SCHLUMBERGER DRIVE, MD1 SUGAR LAND, TX 77478			WALKER, ZAKIYA NICOLE	
			ART UNIT	PAPER NUMBER
			3672	

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/621,083	Applicant(s) LEROY-DELAGE ET AL.	
	Examiner Zakiya N. Walker	Art Unit 3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/806,731.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09112003</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Page 3 lists non-patent literature, which was not disclosed in the applicant's IDS, and therefore has not been considered by the examiner.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3 and 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brothers et al. '069 or '787 alone (both disclosed by applicant).

Brothers et al. disclose methods and compositions for cementing wells that include a method of cementing a well, comprising:

(a) preparing a pumpable slurry by mixing

i) cement;

ii) rubber particles having grain sizes in the range 250 - 425 gm in an amount of between 30% and 100% by weight of cement;

iii) water; and

iv) an antifoam agent (dispersing agent);

so as to form a slurry having a density below 1.70 g/cm ; and

(b) pumping the slurry into the well.

The method further teaches: wherein the step of preparing the slurry comprises mixing rubber particles having grain sizes in the range 250 gm to 400 gm; wherein the rubber particles are obtained by recycling tires from the automobile industry; wherein the step of preparing the slurry further comprises mixing at least one additive selected from the group consisting of suspension agents, dispersing agents, retarders, cement setting accelerators, and fluid loss control agents; wherein the rubber particles have a density of about 1.2 g/cm; further comprising mixing the rubber particles so as to

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form a slurry having a density of less than 1.44 g/cm; further comprising dry blending the cement and rubber particles prior to mixing with water to form the slurry; further comprising preparing a slurry having a water content of 55% by volume or less.

However, the references broadly use the term "dispersing agent", instead of antifoam agent, which is a type of dispersing agent in non-foaming cements. It is considered an obvious expedient to use an antifoaming type of dispersing agent within a cement composition for the purpose of preventing/eliminating foam.

5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brothers et al.'069 or '787 in view of Tiekckelmann et al. (cited by applicant).

Brothers et al. disclose methods and compositions for cementing wells as stated above. However, the references fail to teach particularly including cast amorphous metal fibers.

Tiekckelmann et al. teaches cement compositions that include cast amorphous metal fibers for the purpose of providing reinforcement in the cement.

It would have been considered obvious to one ordinarily skilled in the art at the time the invention was made to have provided amorphous metal fibers in the cement of Brothers et al.'069 or '787 in order to provide cement reinforcement.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Barlet-Gouedard et al. teaches cementing compositions having fine rubber particles and antifoaming agents.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zakiya N. Walker whose telephone number is (703) 305-0302. The examiner can normally be reached on Tuesday-Friday, 6:30 AM-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (703) 308-2151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Zakiya N. Walker
Primary Examiner
Art Unit 3672

ZW
March 16, 2004